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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,504

04/12/2004

Jeffrey S. Brooks

9176

3047

7590

12/01/2006

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EXAMINER

MORGAN JR, JACK HOSMER

ART UNIT

PAPER NUMBER

3782

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,504	Applicant(s) BROOKS, JEFFREY S.	
	Examiner Jack H. Morgan	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1" has been used to designate both preferred embodiment of the holster in all figures and the close up view of the clip in figures 1 and 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 9, 10, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Clarke (US 5,967,393). Clark discloses a concealed holster (Fig 1-3) which mounts on the belt of a user and comprises a holster pocket (Fig 2 and 3, 290), a

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grip receiver (100) with a grip receiver face and face inlay (190, Col 3, lines 48-50) for removably receiving and concealing the grip and action of the pistol and an auxiliary case (192, Col 3 lines 53-56).

In regards to claim 10, the grip receiver face is resilient in that it is formed from plastic (Col 4, lines 1-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 4, 11, 12, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke (US 5,967,393) in view of Tuber (US 5,312,029). Clarke discloses all the limitations of the claims except for a clip attached to said holster pocket and belt to removably secure the holster to the user. Tuber discloses a belt clip for a container (Fig 3) in which the container is attached to the belt using a clip (30,32 and 34, Col 1, lines 57-62) in order to secure the container to the user. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the concealed holster of Clarke with the belt clip of Tuber in order to removably attach the holster to the belt of a user.

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4. Claims 5-8, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke (US 5,967,393) in view of Tuber (US 5,312,029) as applied to claims 3, 4, 11, 12, 19, and 20 above, and further in view of Distenfanso et al. (US 5,829,502). Clarke as modified above discloses all the limitations of the claims except for a flap on the auxiliary case for accessing the interior of the auxiliary case. Distenfanso et al. disclose auxiliary cases (Fig 3, 16) with flaps (18) to retain a small item placed therein (Col 4, lines 51-54). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the concealed holster of Clark as modified above with the flaps of Distenfanso et al. in order to retain the items placed in the auxiliary case.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goodwin (US 5,865,357), Schade (US 4,190,148), Lichtenberger (US 6,155,471) and Campiglia (US 2,324,194).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Morgan
AU 3782
November 16, 2006


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER